

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

IN RE)	
)	
ALBERT L. PUNCHES and)	Case No. 99-00425
BETH E. PUNCHES)	
)	MEMORANDUM OF
DECISION)	
)	and ORDER
)	
Debtors.)	
_____)	

HONORABLE TERRY L. MYERS, U.S. BANKRUPTCY JUDGE

Stephen W. French, Boise, Idaho, for Debtors.

Lois K. Murphy, Boise, Idaho, Trustee.

These chapter 7 Debtors own a 1987 Ford Tempo worth \$700.00 and a 1987 Ford F-150 pickup truck worth \$1,500.00. They own these vehicles free and clear of liens. They have claimed both motor vehicles as exempt under Idaho Code 11-605(3).

The Debtors also own a 1987 Lance 3000 8-1/2 foot camper which is on the pickup truck. It, too, is owned free and clear of liens. Its value is \$1,500.00.

On their Schedule C, Debtors claimed an exemption in the camper under

§ 11-605(3) to the full \$1,500.00 value. The Trustee timely objected and the matter came on for hearing. Following the submission of evidence and argument, the matter was taken under advisement. This Decision resolves the question of the claimed exemption and constitutes the Court's findings and conclusions. Rule 7052.

BACKGROUND

Mr. PUNCHES is self-employed as a "head hunter" for small rural hospitals and medical facilities in search of employees. Mrs. PUNCHES is not employed. Mr. PUNCHES travels to small communities in Idaho, Wyoming, Oregon, and Washington in order to meet with hospital personnel and evaluate the hospital's operations and the nature of their hiring needs. On these visits, he drives his pickup and stays in the camper. He thus avoids incurring expenses for hotel or meals on the road, by sleeping and eating in his camper and paying only minimal overnight camping charges at RV parks.

Mr. PUNCHES testified that his physical visits to the hospitals and medical facilities are integral to his occupation. He further indicates that he would not be able to effectively make a living if he had to incur board and lodging expenses while on the road. Mr. PUNCHES makes, on average, two trips per month. Each trip lasts roughly four days in duration. The balance of the time, he works from his home office in Eagle, Idaho. The PUNCHES admitted using the camper for recreation a half dozen times over the past year.

The Claimed Exemption

At the hearing, the Debtors clarified the nature of the exemption they assert. The Idaho Code provision cited on Schedule C, § 11-605(3), provides as follows:

(3) An individual is entitled to exemption, not exceeding one thousand dollars (\$1,000.00) in aggregate value, of implements, professional books, and tools of the trade; and to an exemption of one (1) motor vehicle to the extent of a value not exceeding one thousand five hundred dollars (\$1,500.00).

As noted above, the Debtors asserted a \$1,500.00 exemption in the camper. This apparently led the Trustee, and initially led the Court, to assume that the

Debtors asserted as a third motor vehicle exemption, something clearly not allowed under the statute or applicable case law.

However, Mr. Punches actually claims the camper as his “tool of the trade,” and he asserts the \$1,000.00 exemption provided for in the first clause of

§ 11-605(3). Debtors’ counsel also indicated that Mrs. Punches would assert a similar tool of the trade exemption in the camper in order to protect the value above \$1,000.00. As yet, no amended Schedule C has been filed.

Nevertheless, the parties presented evidence and argument on the “amended” exemption. And it is clear that the Trustee contests the propriety of the “tool of the trade” exemptions. The Court will therefore entertain the matter on this basis despite the absence of an amended Schedule C, or a formal objection thereto.

DISCUSSION

Though clearly a nontraditional use of the statute, Mr. Punches argues that the camper is absolutely essential to his chosen profession and qualifies as a “tool

of the trade.”¹ Debtors rely on decisions such as *In re Aguero*, 93 I.B.C.R. 65 (Bankr.D. Idaho 1993) and *In re Biancavilla*, 173 B.R. 930, 94 I.B.C.R. 150 (Bankr.D. Idaho 1994). The Court in *Aguero* stated:

The Court has defined the implements and tools of a debtor’s trade to “consist of such instruments and things as are used or employed in his work.” *In re Moon*, 89 I.B.C.R. 26, 28. Over the years, the Court has interpreted the exemption statutes broadly enough to include such “non-traditional” tools as office equipment and furniture, *In re Johnson*, 87 I.B.C.R. 222, 223, and a television, VCR and video tapes. *Moon*, 89 I.B.C.R. at 29-30.

93 I.B.C.R. at 65-66. The nontraditional exemption in *Aguero* was a Peterbilt diesel truck. Similarly, *Biancavilla* allowed a tool of the trade exemption for a computer used at a debtor’s home.

It is true that this Court has, in the past, looked closely at debtors who claimed a tool of the trade exemption in a vehicle on which they also claimed a motor vehicle exemption. *Aguero*, 93 I.B.C.R. at 65-67; *In re Fox*, 81 I.B.C.R. 123, 124 (Bankr. D. Idaho 1981). But here, as noted, the motor vehicle exemptions are separately claimed and the tool of the trade exemption is claimed not in a vehicle but, rather, in a removable camper placed in the pickup bed.

¹ The assertion is not without its difficulties. For example, the Debtor testified as to the commission basis of his compensation and the fact that on occasion he will be “pre-paid” or advanced a portion of his total commission. Nothing would appear to prohibit a compensation arrangement between Mr. Punches and his clients which would also allow for payment of actual expenses (like hotels and meals) incurred in site visits. This would appear to be particularly true if the client facilities also feel as strongly about physical visits as Mr. Punches does.

However, the Court concludes that this type of analysis invites the Court to become overly enmeshed in how the Debtor chooses to conduct his business. The proper focus is whether or not the item claimed as exempt is actually used by the debtor in earning a living, and is necessary to the debtor to continue his trade or profession. *Aguero*, 93 I.B.C.R. at 66-67.

In light of the totality of the evidence presented at hearing and the unique circumstances presented by this case, the Court concludes that the tool of the trade exemption in the camper is justified. The Debtors apparently realized that claiming an exemption of property ordinarily associated with recreational pursuits as being a “tool” required a special showing. The Court concludes that such a showing was adequately made. And, as noted by the Court in *Aguero*, the monetary limit established by the Idaho Legislature as to the value which may be exempted and the requirement of a factual showing in order to qualify an asset as properly exempt serve to guard against improper manipulation or abuse. *Aguero*, 93 I.B.C.R. at 67.

As noted above, Mrs. Punches also claims a tool of the trade exemption in the camper, and cites *In re Johnson*, 87 I.B.C.R. 222 (Bankr.D. Idaho 1987), for support. That decision by Judge Hagan relied upon Judge Young’s opinion in *Fox*, which expressly considered, and validated, the assertion by a non-working spouse of a tool of the trade exemption in community property, where the husband used that property as a tool in his trade. *Fox*, 81 I.B.C.R. at 123. The Court will allow Mrs. Punches to exempt the other \$500.00 of value in the camper.

CONCLUSION AND ORDER

Based upon the foregoing, the Trustee’s objection is overruled and the exemption of the camper as a tool of the trade by Mr. and Mrs. Punches is allowed.

Dated this 17th day of May, 1999.